

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA	.	Criminal No. 1:10cr485
	.	
vs.	.	Alexandria, Virginia
	.	January 26, 2015
JEFFREY ALEXANDER STERLING,	.	11:50 a.m.
	.	
Defendant.	.	
	.	
. . . . .	.	

TRANSCRIPT OF JURY TRIAL  
BEFORE THE HONORABLE LEONIE M. BRINKEMA  
UNITED STATES DISTRICT JUDGE

VOLUME IX

APPEARANCES:

FOR THE GOVERNMENT:	JAMES L. TRUMP, AUSA DENNIS M. FITZPATRICK, AUSA United States Attorney's Office 2100 Jamieson Avenue Alexandria, VA 22314 and ERIC G. OLSHAN, Deputy Chief Public Integrity Section of the Criminal Division United States Department of Justice 1400 New York Avenue, N.W. Suite 12100 Washington, D.C. 20005
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FOR THE DEFENDANT:	EDWARD B. MAC MAHON, JR., ESQ. Law Office of Edward B. MacMahon, Jr. 107 East Washington Street P.O. Box 25 Middleburg, VA 20118
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(APPEARANCES CONT'D. ON FOLLOWING PAGE)

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COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

APPEARANCES: (Cont'd.)

FOR THE DEFENDANT:

BARRY J. POLLACK, ESQ.  
MIA P. HAESSLY, ESQ.  
Miller & Chevalier Chartered  
655 - 15th Street, N.W.  
Suite 900  
Washington, D.C. 20005-5701

CLASSIFIED INFORMATION  
SECURITY OFFICERS:

CHRISTINE E. GUNNING  
MAURA PETERSON

ALSO PRESENT:

GERARD FRANCISCO  
SA ASHLEY HUNT  
JENNIFER MULLIN, ESQ.

OFFICIAL COURT REPORTER:

ANNELIESE J. THOMSON, RDR, CRR  
U.S. District Court, Fifth Floor  
401 Courthouse Square  
Alexandria, VA 22314  
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1 P R O C E E D I N G S

2 (Defendant present, Jury out.)

3 THE CLERK: Criminal Case 10-485, United States of  
4 America v. Jeffrey Alexander Sterling. Would counsel please  
5 note their appearances for the record.

6 MR. FITZPATRICK: Good morning, Your Honor. Dennis  
7 Fitzpatrick on behalf of the United States.

8 THE COURT: Good morning.

9 MR. MAC MAHON: Good morning, Your Honor. Edward  
10 MacMahon for Mr. Sterling.

11 MR. POLLACK: Good morning, Your Honor. Barry  
12 Pollack on behalf of Mr. Sterling.

13 MS. HAESSLY: Good morning, Your Honor. Mia Haessly  
14 for Mr. Sterling.

15 THE COURT: All right. And the defendant is here in  
16 court.

17 You-all have reached -- seen the note from the jury.  
18 They've reached -- "We cannot reach agreement on several  
19 counts. We need additional instructions as to how to proceed."

20 Now, it's almost their appointed lunch break time,  
21 and my intention would be to give them a gentle *Sawyer*-type  
22 charge, simply to tell them why don't they take the lunch  
23 break, come back a little bit fresh, and remember that, you  
24 know, they need to listen to each other and continue working to  
25 see if they can possibly reach a unanimous decision.

1           However, this has been a very attentive jury, and it  
2           would be my intention should they come back with a similar  
3           question in the future to ask them -- reading between the  
4           lines, it appears as though they have reached a decision on  
5           some counts. We could ask for a partial verdict. I don't know  
6           if you want to address that issue now or not.

7           MR. FITZPATRICK: Your Honor, I think that's probably  
8           premature at this point. I wouldn't ask for a partial verdict  
9           at this point. I think the Court's suggestion of sort of a,  
10          quote-unquote, gentle charge now is appropriate, and then later  
11          on in the day, we can give them more of a formal Sawyer charge.

12          THE COURT: I'm not going to keep this -- I mean,  
13          they've been at it -- it's a very complicated case, and it's a  
14          circumstantial evidence case, and this jury has been at it  
15          since Thursday, so I don't think that I'm going to make them  
16          come back tomorrow. If they've reached, if they've reached  
17          some decisions, we're going to, I think, take them at some  
18          point today.

19                 But I'll hear from defense on this issue.

20          MR. MAC MAHON: Yes, Your Honor. I would totally  
21          agree that we don't need a partial verdict at this point in  
22          time. If you're going to give them a gentle reminder along the  
23          lines you talked about, the defense wouldn't object.

24                 We also filed a motion last night. I don't know if  
25          the Court saw it.

1 THE COURT: I'm not going to address your motions  
2 right now. We'll wait and see what the jury does,  
3 Mr. MacMahon.

4 MR. MAC MAHON: Thank you, Your Honor.

5 THE COURT: Okay. All right, let's bring the jury  
6 in.

7 (Jury present.)

8 THE COURT: Good morning, ladies and gentlemen. I  
9 have another jury sitting in those seats. That's why they're  
10 still warm probably.

11 So anyway, I want to thank you again for your  
12 attendance. As I've said several times before, you've been a  
13 great jury, and you still are a great jury.

14 You've given us a question; that is, "We cannot reach  
15 agreement on several accounts. We need additional instructions  
16 as to how to proceed."

17 And what I'm going to instruct you on at this point  
18 is, No. 1, it's close to your lunch break, and I suspect  
19 without having had a morning break, you're all kind of tired.  
20 So I certainly want you to take your lunch break and relax a  
21 little bit, come back fresh.

22 And what I want to just remind you of is that you  
23 need to listen very carefully to each other, all right? As I  
24 indicated to you earlier, it's your duty as jurors to consult  
25 with each other and to deliberate with each other with a view

1 towards reaching an agreement if you can do so without violence  
2 to your own individual judgment.

3           You should not be hesitant to change your opinion  
4 after listening to the other jurors if they convince you that  
5 your opinion is not sound, but again, it is your own opinion  
6 ultimately that must carry the day, but you are expected to  
7 continue with that opinion after you've carefully with an open  
8 mind listened to all the opinions of the other jurors.

9           I am assuming there's a minority group and there's a  
10 majority group. The minority should listen carefully to what  
11 the majority has to say, and just as equally, the majority  
12 should listen very carefully to the minority. And again, see  
13 if you can reach a unanimous verdict without doing violence to  
14 your own individual judgment.

15           So we're going to let you go to lunch. You've been a  
16 very cordial jury; I often see you smiling as you come into  
17 court; and see if you can continue to work together to reach a  
18 decision, and that's the best instruction I can give you.  
19 There's no more law I can give you but that, all right?

20           So you go to lunch now, and we'll see whether or not  
21 you can come back with anything else, all right? Thank you.

22           All right, any objection to the Court's instructions?

23           MR. MAC MAHON: Not from the defense, Your Honor.

24           MR. TRUMP: No, Your Honor.

25           THE COURT: All right, that's fine. Thank you,

1 ladies and gentlemen. You may go, and we'll bring the next  
2 jury in, so as soon as this jury is out.

3 (Jury out.)

4 THE COURT: All right, Mr. Wood, we need the next  
5 jury brought in.

6 MR. TRUMP: Thank you, Judge.

7 THE COURT: We'll switch teams now.

8 MR. MAC MAHON: Thank you, Your Honor.

9 THE COURT: So you-all can go to lunch. They won't  
10 be back until 1:00.

11 MR. POLLACK: Thank you, Your Honor.

12 (Recess from 11:56 a.m., until 3:12 p.m.)

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1 A F T E R N O O N S E S S I O N

2 (Defendant and Jury present.)

3 THE CLERK: Madam Foreperson, has the jury reached  
4 its verdict?

5 FOREPERSON HAMM: Yes, we have.

6 THE CLERK: Could you hand it to the court security  
7 officer.

8 Would the defendant please stand and face the jury.

9 "In the matter of Criminal Case United States of  
10 America v. Jeffrey Alexander Sterling, as to Count 1, with  
11 respect to Count 1, unauthorized disclosure of national defense  
12 information, we, the jury, unanimously find the defendant,  
13 Jeffrey Alexander Sterling: Guilty.

14 "B. Count 2. With respect to Count 2, unauthorized  
15 disclosure of national defense information, we, the jury,  
16 unanimously find the defendant, Jeffrey Alexander Sterling:  
17 Guilty.

18 "Count 3. With respect to Count 3, unlawful  
19 retention of national defense information, we, the jury,  
20 unanimously find the defendant, Jeffrey Alexander Sterling:  
21 Guilty.

22 "Count 4. With respect to Count 4, unauthorized  
23 disclosure of national defense information, we, the jury,  
24 unanimously find the defendant, Jeffrey Alexander Sterling:  
25 Guilty.



1 "Count 5. With respect to Count 5, unauthorized  
2 disclosure of national defense information, we, the jury,  
3 unanimously find the defendant, Jeffrey Alexander Sterling:  
4 Guilty.

5 "Count 6. With respect to Count 6, unauthorized  
6 disclosure of national defense information, we, the jury,  
7 unanimously find the defendant, Jeffrey Alexander Sterling:  
8 Guilty.

9 "Count 7. With respect to Count 7, unauthorized  
10 disclosure of national defense information, we, the jury,  
11 unanimously find the defendant, Jeffrey Alexander Sterling:  
12 Guilty.

13 "Count 9. With respect to Count 9, unauthorized  
14 conveyance of government property, we, the jury, unanimously  
15 find the defendant, Jeffrey Alexander Sterling: Guilty.

16 "Count 10. With respect to Count 10, obstruction of  
17 justice, we, the jury, unanimously find the defendant, Jeffrey  
18 Alexander Sterling: Guilty.

19 "So say we all this 26th day of January, 2015.  
20 Signed Foreperson, Jennie Hamm."

21 Ladies and gentlemen, is this your unanimous verdict?

22 ALL JURORS: Yes.

23 THE COURT: All right, does anybody want the jury  
24 polled?

25 MR. MAC MAHON: Yes, Your Honor.

1 THE COURT: All right. Now, what that means, ladies  
2 and gentlemen, we're going to ask each of you individually if  
3 these verdicts -- just one second.

4 We're going to ask each one of you to acknowledge  
5 whether or not these verdicts represent your own individual  
6 judgment as well as your understanding of the collective  
7 judgment of the jury.

8 THE CLERK: Juror No. 8, Kelsey Brosnahan, is this  
9 your verdict?

10 JUROR BROSNAHAN: It is.

11 THE CLERK: Juror No. 49, Aaron Hunt, is this your  
12 verdict?

13 JUROR HUNT: Yes, it is.

14 THE CLERK: Juror No. 41, Jennie Hamm, is this your  
15 verdict?

16 FOREPERSON HAMM: Yes, it is.

17 THE CLERK: Juror No. 57, Sandra Khouri, is this your  
18 verdict?

19 JUROR KHOURI: It is.

20 THE CLERK: Juror No. 51, Andrew Ihle, is this your  
21 verdict?

22 JUROR IHLE: It is.

23 THE CLERK: Juror No. 43, Alan Herman, is this your  
24 verdict?

25 JUROR HERMAN: Yes.

1 THE CLERK: Juror No. 76, Mahesh Panwar, is this your  
2 verdict?

3 JUROR PANWAR: Yes, it is.

4 THE CLERK: Juror No. 6, Laura Billings, is this your  
5 verdict?

6 JUROR BILLINGS: Yes, it is.

7 THE CLERK: Juror No. 73, Thuong Nguyen, is this your  
8 verdict?

9 JUROR NGUYEN: Yes, it is.

10 THE CLERK: Juror No. 12, Anne Marie Cassidy, is this  
11 your verdict?

12 JUROR CASSIDY: Yes, it is.

13 THE CLERK: Juror No. 37, Amanda Granlund, is this  
14 your verdict?

15 JUROR GRANLUND: Yes, it is.

16 THE CLERK: Juror No. 26, Gregory Fabian, III, is  
17 this your verdict?

18 JUROR FABIAN: Yes, it is.

19 THE COURT: All right. Ladies and gentlemen, on  
20 behalf of the Court and the parties, I want to thank you for  
21 being an extremely attentive and careful jury. You were with  
22 us for two-and-a-half weeks. It's never easy sitting in  
23 judgment of another human being. It's one of the toughest jobs  
24 we have as citizens. You have performed your civic duty, and  
25 we want to thank you for giving us your valuable time and

1 attention.

2 Now, our local rules do not permit any attorneys to  
3 ever contact or question a juror. I want to let you know you  
4 have a First Amendment right to express your views if you wish  
5 to do so. You do not have to, however. If anybody asks you  
6 about your verdict, it's perfectly appropriate for you to  
7 decline to answer. I would strongly suggest if you do decide  
8 you want to speak to anyone about this, that you do so with a  
9 certain amount of discretion and respect for the other members  
10 of the jury, all right?

11 But unless there's any further reason to keep the  
12 jury here, I'm going to excuse them for today. Anything  
13 further from the defense for this jury?

14 MR. MAC MAHON: No, Your Honor.

15 THE COURT: Mr. Trump?

16 MR. TRUMP: No, Your Honor.

17 THE COURT: All right. Then, ladies and gentlemen,  
18 if you would, check out with the Clerk's Office. Remember my  
19 one caution about those three exhibits that you must never  
20 discuss the contents of with anyone. Leave your notes in the  
21 jury room. We'll take care of that. And once again, thank you  
22 for your attendance. We'll stay in session because I have some  
23 matters to take up now that you're done. Thank you.

24 (Jury excused.)

25 THE COURT: All right. Now, I know that a number of

1 motions have been filed by the defense. I'm obviously not  
2 going to address those now. I'll direct that any posttrial  
3 motions be filed, so the government -- the defense can amplify  
4 them. The government obviously will have time to respond to  
5 them.

6 I think given the nature of this case, I'll give you  
7 three weeks in which to file posttrial motions, Mr. MacMahon,  
8 and then the government shouldn't need more than two weeks to  
9 respond to those, all right?

10 We'll go ahead and set sentencing at this time. How  
11 is April 17 for everybody? Or we can do it the 24th, which  
12 would perhaps be better since it's a little bit more time for  
13 the posttrial motions. How does that fit on your calendars?

14 MR. MAC MAHON: That's fine, Your Honor.

15 THE COURT: All right, the 24th? All right, that  
16 will be at 9:00.

17 I know of no reason why Mr. Sterling's bond should  
18 not be continued. Is there any issue about that?

19 MR. TRUMP: We leave it to Your Honor.

20 THE COURT: All right. Mr. Sterling, I'm going to  
21 continue you on your current bond, adding as two additional  
22 conditions the first being that you cooperate with the  
23 Probation Office with the preparation of the pre-sentence  
24 report. Do you understand?

25 THE DEFENDANT: Yes.

1 THE COURT: And secondly, that you reappear in this  
2 court on Friday, April 24, at 9:00 for sentencing. Do you  
3 understand that?

4 THE DEFENDANT: Yes, I do.

5 THE COURT: All right, when you leave court today,  
6 counsel, you need to take your client over to the Probation  
7 Office to have him enrolled in the pre-sentence investigation.  
8 Much of that can be done out in Missouri, so you're not going  
9 to have to come back and forth on that.

10 Anything further we need to address at this point?

11 MR. TRUMP: I assume whatever motions that are filed  
12 will be heard on the April 24 sentencing date?

13 THE COURT: Well, we might want to hear them  
14 beforehand, so why don't we wait and see what you-all file and  
15 what your responses are, all right?

16 MR. TRUMP: That's fine, Your Honor.

17 THE COURT: All right, anything further?

18 MR. MAC MAHON: Nothing, Your Honor, thank you.

19 THE COURT: No? All right, then we'll take a  
20 five-minute recess to reset the court for the other trial.

21 (Which were all the proceedings  
22 had at this time.)  
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CERTIFICATE OF THE REPORTER

I certify that the foregoing is a correct transcript of  
the record of proceedings in the above-entitled matter.

/s/  
Anneliese J. Thomson